

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

United States *ex rel.* Michael K. Drakeford,
M.D.,

Plaintiff,

vs.

Tuomey Healthcare System, Inc.,

Defendant.

Case No. 3:05-cv-2858-MBS

**TUOMEY’S MOTION FOR STAY
PENDING APPEAL**

In accordance with Federal Rule of Appellate Procedure 8(a), Defendant Tuomey Healthcare System, Inc. (“Tuomey”), by and through its undersigned counsel, hereby moves this Court for a stay pending appeal of the Amended Judgment (Dkt. 887) entered on October 2, 2013. As more fully explained in the Memorandum of Law filed herewith, Tuomey cannot post a supersedeas bond in the amount set forth in Federal Rule of Civil Procedure 62(d) and Local Rule 62.01. Thus, Tuomey requests that the Court enter an order staying the execution of the judgment on the same terms that the Government has previously accepted in a forbearance agreement entered into with Tuomey.¹ Alternatively, Tuomey requests that the Court waive the bond requirement altogether or grant a stay upon the posting of an amount less than \$50,000,000, which is the amount currently deposited in escrow pursuant to the forbearance agreement.

If a stay is not granted, Tuomey’s ability to operate as a going concern will be immediately impaired. Tuomey, and the public it serves, will suffer irreparable harm. There is

¹ Under the forbearance agreement, the Government agreed that \$50,000,000 was sufficient collateral to protect the Government’s interest as a judgment creditor while Tuomey and the Government attempted to negotiate a settlement of this case. Tuomey currently has \$50,000,000 on deposit with a third party escrow agent. The Government, recognizing that \$50,000,000 is the most that Tuomey can afford to deposit, agreed to refrain from enforcing the judgment until this Court, and if necessary the Fourth Circuit Court of Appeals, grants Tuomey’s motion for a stay.

no conceivable harm to the Government from the entry of a stay in accordance with the terms of the forbearance agreement, or upon such other terms as this Court deems just and proper. Accordingly, Tuomey respectfully requests the Court grant its Motion.²

Respectfully submitted,

By: s/ Margaret N. Fox

A Camden Lewis
James M. Griffin
Margaret N. Fox
Lewis, Babcock & Griffin, LLP
Post Office Box 11208
PHONE: (803) 771-8000

E. Bart Daniel
Seven State Street
Charleston, SC 29401
843-722-2000

Daniel M. Mulholland, III
Horty, Springer & Mattern, P.C.
4614 Fifth Avenue
Pittsburgh, PA 15213
412-687-7677

Attorneys for Defendant
Tuomey Healthcare System, Inc.

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Columbia, SC

² In accordance with Local Rule 7.02 DSC, counsel for Tuomey consulted with counsel for the Government regarding this motion. The Government does not consent to the relief sought by Tuomey.